

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PLAYSTUDIOS, INC.,

Plaintiff(s),

V.

CENTERBOARD ADVISORS, INC., et al.,

Defendant(s).

Case No.: 2:18-cv-01423-JCM-NJK

Order

(Docket No. 43)

Pending before the Court is Defendants' motion to compel discovery. Docket No. 43. The Court has considered Defendants' motion, Plaintiff's response and countermotion for protective order and Defendants' reply. Docket Nos. 43, 44, 47.¹ The Court finds the motion properly denied without a hearing. *See Local Rule 78-1.* For the following reasons, the Court **DENIES** Defendants' motion without prejudice. Docket No. 43. Further, the Court **DENIES** Plaintiff's countermotion without prejudice. Docket No. 44.

I. Background

The instant case involves a dispute over a business agreement between Plaintiff and Defendants, whereby Defendants agreed to perform consulting services and Plaintiff agreed to pay for those services. Docket No. 1-1 at 5. The agreement stipulated that Defendants would provide

¹ The pagination on the briefing of Docket Nos. 43 and 47 does not match the pagination assigned by CM/ECF. The Court cites herein to the pagination provided by CM/ECF.

1 services to Plaintiff, a mobile games company, related to various business objectives including,
2 but not limited to, opening or acquiring an off-shore development studio, servicing products and
3 features, and establishing infrastructure required to host a team of off-shore developers. *Id.* The
4 motion currently before the Court involves a discovery dispute related to Plaintiff's refusal to
5 provide: (i) written discovery responses on what Plaintiff agrees to produce and what it is
6 withholding and why; (ii) materials relating to Plaintiff's efforts to acquire an off-shore studio
7 from third party RockYou, Inc.; and (iii) financial statements and business performance records
8 that would evidence, among other things, the extent to which Plaintiff has benefited financially
9 from the strategies devised and recommended by Defendants. Docket No. 43-1 at 2. Defendants'
10 counsel certifies that the parties met and conferred by telephone on January 9, 2019, and January
11 16, 2019. Docket No. 43-2 at 2. Defendants further submit that, on January 30, 2019, their counsel
12 wrote to Plaintiff's counsel regarding discovery that needed to be produced. *Id.* at 4. According
13 to Defendants, this written request went unanswered. *Id.*

14 The Federal Rules of Civil Procedure require that the party bringing a motion to compel
15 must "include a certification that the movant has in good faith conferred or attempted to confer
16 with the person or party failing to make disclosure or discovery in an effort to obtain it without
17 court action." Fed. R. Civ. P. 37(a)(1). The Local Rules expound on this requirement, providing
18 that discovery motions will not be considered unless the movant (1) has made a good faith effort
19 to meet and confer before filing the motion, and (2) includes a declaration with the details and
20 results of the meet-and-confer conference about each disputed discovery request. Local Rule 26-
21 7(c). These rules require that the movant "personally engage in two-way communication with the
22 nonresponding party to meaningfully discuss each contested discovery dispute in a genuine effort
23 to avoid judicial intervention." *ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166,
24 171 (D. Nev. 1996). Accordingly, the meet and confer requirement has not been met.

25 **II. Standards**

26 A. Discovery

27 "[B]road discretion is vested in the trial court to permit or deny discovery." *Hallett v.*
28 *Morgan*, 296 F.3d 732, 751 (9th Cir. 2002); *see also Crawford-El v. Britton*, 523 U.S. 574, 598

1 (1998). Parties are entitled to discover non-privileged information that is relevant to a party’s
2 claim or defense and is proportional to the needs of the case, including consideration of the
3 importance of the issues at stake in the action, the parties’ relative access to relevant information,
4 the parties’ resources, the importance of the discovery in resolving the issues, and whether the
5 burden or expense of the proposed discovery outweighs its likely benefit. Fed.R.Civ.P. 26(b)(1).
6 The most recent amendments to the discovery rules are meant to curb the culture of scorched earth
7 litigation tactics by emphasizing the importance of ensuring that the discovery process “provide[s]
8 parties with efficient access to what is needed to prove a claim or defense, but eliminate
9 unnecessary or wasteful discovery.” *Roberts v. Clark Cty. School Dist.*, 312 F.R.D. 594, 603-04
10 (D. Nev. 2016).

11 B. Motion to Compel

12 When a party fails to provide requested discovery, the requesting party may move to
13 compel that discovery. *See Fed.R.Civ.P. 37(a)*. The burden is on the party resisting discovery to
14 show why a discovery request should be denied by specifying in detail, as opposed to general and
15 boilerplate objections, why “each request is irrelevant.” *FTC v. AMG Servs.*, 291 F.R.D. 544, 553
16 (D. Nev. 2013) (internal citation omitted). This requires the party resisting discovery to show for
17 each request, regardless of numerosity, how each of its objections is applicable, by providing the
18 relevant standard for each objection and a meaningfully-developed argument as to how the
19 standard has been met. *See Green v. Baca*, 226 F.R.D. 624, 653 (C.D. Cal. 2005) (rejecting blanket
20 claims of privilege as sufficient to address the applicable standard); *see also Kor Media Group,
LLC v. Green*, 294 F.R.D. 579, 582 n.3 (D. Nev. 2013) (courts only address arguments that are
22 meaningfully developed).

23 C. Full Text Requirement

24 Local Rules requires that all motion to compel discovery set forth, in full the text, the
25 discovery originally sought and the response thereto, if any. LR 26-7(a). Without the complete
26 text of the requests and the response, the Court cannot determine whether a party’s responses are
27 proper. *Allstate Ins. Co. v. Balle*, 2013 WL 5323968, at *4 (D. Nev. Sept 20, 2013). “Practically
28 speaking, the failure to comply with LR 26-7(a) improperly shifts the burden to the Court to sift

1 through and root for issues that should be clear on the face of a discovery motion.” *Taylor v. Aria*
2 *Resort & Casino, LLC*, 2013 WL 2355462, at *4 (D. Nev. May 29, 2013).

3 Here, Defendants’ motion alleges three outstanding or deficient discovery responses—
4 written discovery responses on what Plaintiff agrees to produce and what it is withholding,
5 materials relating to Plaintiff’s efforts to acquire an off-shore studio from RockYou, Inc., and
6 Plaintiff’s financial statements and business performance records. Docket No. 43-1 at 1.
7 Defendants provide the text of what they allege is Plaintiff’s insufficient, generalized response
8 disclaimer regarding what Plaintiff agrees to produce, as well as the request and responses for
9 Plaintiff’s business and financial information; however, Defendants fail to provide the requests
10 and any responses thereto of the materials related to Plaintiff’s efforts to acquire an off-shore studio
11 RockYou. Docket No. 43-1.

12 **III. Conclusion**

13 Defendants motion to compel fails to comply with both the meet and confer requirement
14 and the full text requirement. Accordingly, the Court **DENIES** Defendants’ motion without
15 prejudice. Docket No. 43. Further, the Court **DENIES** Plaintiff’s countermotion without
16 prejudice. Docket No. 44.

17 IT IS SO ORDERED.

18 Dated: March 8, 2019

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NANCY J. KOPPE
United States Magistrate Judge

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